S.B.Criminal Revision Petition No.327/1993

Charan Singh
v.
State of Rajasthan

Date of Order :: 23rd October, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

None present, for the petitioner.
Mr. Vishnu Kachhawaha, Public Prosecutor.

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This revision petition is preferred to challenge judgment and order dated 17.9.1993 passed by learned Sessions Judge, Udaipur in Cr. Appeal No.134/91 affirming the conviction and sentence passed against the petitioner by learned Judicial Magistrate, City South, Udaipur vide his judgment dated 23.11.1991 in Cr. Case No.1242/83. By the judgment and order dated 23.11.1991 the petitioner was convicted for commission of an offence under Section 304-A IPC and was sentenced to undergo three months rigorous imprisonment with a fine of Rs.500/- and in default thereto undergo one month's further simple imprisonment.

In brief, the facts of the case are that the petitioner was driving a truck No.MWT-2726 and that met with an accident, consequent thereto a man was died. The petitioner himself stopped the truck and reported himself at the police station concerned. The

trial court after considering entire evidence gave a specific finding of fact that the truck driver (petitioner) was not driving the truck rashly or negligently. A finding was also given that the deceased though riding on a cycle was trying to overtake a city bus and while doing so he received a hit by truck. A finding is also given that it was not possible for truck driver to see the deceased cycle rider who was behind the city bus at initial stage and came forward as a snap. Learned trial court has conviction the petitioner for the offence under Section 304-A IPC while acquitting him for the offence under Section 279 IPC on the count that he should have take care while driving the truck on road. The order passed by the trial court was affirmed by learned Sessions Judge.

I have perused the orders impugned and also record of the case.

In the instant matter a specific finding is given by the trial court that the truck driver was not driving the truck rashly or negligently, the cycle rider was trying to overtake city bus and he came forward from back side of the city bus as a snap. I failed to understand that once a finding is given that the truck was not driven rashly or negligently then what was the occasion to held the petitioner liable for commission of an offence under Section 304-A IPC.

From perusal of evidence available on record it is apparent that death of cycle rider was not at all a direct result of rash and negligent act of the accused and his act was not proximate and efficient cause of death of cycle rider.

Accordingly, the revision petition deserves acceptance. The same, therefore, is allowed. The order passed by the trial court dated 23.11.1991 in Cr. Case No.1242/83 and affirmed by the Sessions Judge, Udaipur in Cr. Appeal No.134/91 vide judgment and order dated 17.9.1993 are quashed and set aside. The petitioner is acquitted from the charge for commission of an offence under Section 304-A IPC.

(GOVIND MATHUR),J.

Kkm/ps.